

RECEIVED CLERK'S OFFICE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

2008 FEB -4 P 2:00

DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON, SC

John P. Brown, et al.,)
)
Plaintiff,)
)
-versus-)
)
State of South Carolina, et)
al.,)
)
Defendants.)

C. A. No. 2:00-3215-RBH-RSC

REPORT AND RECOMMENDATION

Plaintiffs, proceeding pro se, brought this action pursuant to 42 U.S.C. § 1983 alleging that the defendants violated their constitutional rights in requiring them to submit a blood sample under the South Carolina DNA Act and pay the \$250 fee required by the statute.

In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 (D.S.C.), this matter was referred to the undersigned for pre-trial proceedings. On September 17, 2004, the undersigned issued an order staying the case pending a decision in Civil Action No. 2:99-5555. On April 10, 2006, this case was reassigned from United States District Judge Matthew J. Perry, Jr. to United States District Judge R. Bryan Harwell. On June 29, 2006, Judge Harwell entered an order staying this action pending a ruling by the South Carolina Supreme Court in a related case. On April 12, 2007, Judge Harwell lifted the stay. On October 19, 2007, Judge Harwell issued an Order addressing the

merits in the lead DNA case, Civil Action No. 2:99-5555, and entering judgment in favor of the defendants.

This case was recommitted to the undersigned for further proceedings on October 23, 2007.

Given the age of this case and the decision of the court in Civil Action No. 2:99-5555, the plaintiffs herein were directed on October 23, 2007, to advise the court within **twenty (20) days** whether they wish to continue this action or to request dismissal in accord with Rule 41(a)(2) of the Federal Rules of Civil Procedure, or otherwise.

The plaintiffs were specifically advised that if they failed to respond, this action might be dismissed with prejudice for failure to respond, 41(b) Federal Rules of Civil Procedure. The following plaintiffs have not responded:

Frankie Adams
Reco Agnew
Basil Akbar
Terry Alewine
Woody D. Alexander
Edward Allen
Emiah Anderson
Quentin Anderson
Shawn F. Anderson
Soloman Anderson
Leonard Austin
Tandy C. Babb
Theodore Bailey
Robert Barkoot
Donald Lee Barrick, Jr.
Tampa Bayl
Hervey Beckham
Dennis Beers
Calvin Bell
Robert Berry

Kevin P. Bertley
Gregory Boone
Leedell Bradley
Tryone Bradley
Elmore Braxton
Michael Brockman
Johnny L. Brown
Jeffrey Bryant
Jody Bryant
David L. Burgess, II
James Burnside
Zackery Byerson
Joseph Byrd, Jr.
Gregory Paul Cail
Alex Canady, III
George Cartee
Joel Carter
Billy Joe Cartrette
George Castile
Ronald Ceo
Jonathan Chaffee
Beckett Chandler
Ricky Clark
Marion Coakley
Donald M. Cogdill
Warren Cohen
Allen Collins
Algie E. Cooke
James E. Cooley
Brian Craine
Lamar Cruell
Wayne J. Dabbs
David Darby
Frankie Dash
Jimmy Davenport
Raymond Day
Michael Dinkins
Robert Dorsett
David R. Duke
Gene M. Duncan
David Duvall
Johnny Elmore
Darnell Evans
Lloyd Evans
Tracey Fabian
Allen Fellers
Shawn Fishburne
Jose Flores

Matthew Flowers
William C. Floyd
Chris Franklin
Evon Frederick
Phil Fuller
Emmett Gadsen
Antonio Gantt
Jermaine Garriett
Albert Gause
Kenny Gerald
Charles Gibbs
Donnie Ray Gibson
Roy Gibson
Chaste Glanton
Sean Gordon
Denroy Grant
Darrell Green
Omekius Green
Stephen Green
Gary Gresham
Derrick Haigler
Yaskin Hakin
Mark A. Hamilton
Jimmy Harrison
Dwayne Hartzog
Roosevelt Haynes
Shawn Hemingway
Jimmy R. Hightower
Daniel R. Hill
Ron Hill
Steven Hippenstell
Jessie Holland
Michael Holmes
Robert Horton
Wake Hunt
Antane Hunter
Franklin Hutson
Jimmy Iriel
Shahim Ivery
Samuel H. Jackson
Terry L. Jackson
Dennis Jacobs
Michel Jeffcoat
Michael W. Jeffcoat
Frank Durant Jeffers
James A. Jenkins
Kinji Jeter
Anthony Johnson

Elton Craig Johnson
Porter Johnson
Robert L. Johnson
Benjamin Joiner
Freddie Jones
William Jones
Joseph M. Kimbrell
James King
Raymond Ladson
Thomas L. Latimer
Curtis L. Lawrence
Casey Lewis
Sharon Lynn Libutti
Ronan Lynn
Robert Gary Marshall
Joe Mayberry
Gene McBride
Milton McCaskill
Adrain Deandra McDuffie
Calvin McKnight
Roderick McRae
Keith Miller
John Doe Milton
Darnell Mitchell
Mekeil Mitchell
Truman Mitchum
Michael D. Moore
James B. Morrison
Ismail Muhammad
Michael Murphy
Terry Murphy
Anthony Murray
Albert Lee Myers
Sam Antonio Neals
Larry Nelson
Nathaniel Nelson
Luther Nesbitt, III
Richard Nodine
James O'Shields
James R. Odom
John Olin
Jonathan Paffen
Geoffrey R. Payne
Charles Peach
John M. Penciel
Ronnie Pixley
Harry Plyer
Alphonso Pollard

Frank Portaro
Anthony Poteat
Michael Preston
Jerome Primas
Darrell Pruitt
Nicholas Ramsey
Gonzales Reese
Johnny Register
Jackie Richardson
William Richbourg
Pernell Riley
Aaron Robinson
Eric Robinson
Reynold Romain
David Roton
Edward O. Rutland
Herbert Rutledge
Richard Sampson
Harry J. Sanders
Jason Sarratt
Devon Scott
Mark Seabrooks
Cedric Shamley
James Sharpe
Thurlone Shell
Johnny Shogan
George N. Shropsire
Tony Shuler
Torriss Simmons
Angelo Singletary
Willie Singletary
Arthur Lee Singleton
John Singleton
Oliver Singleton
Curtis Slater
Patrick Small
Rodney Smalls
Chauncy Smith
Eddie R. Smith
Robert Smith
Robert C. Smith
Timothy Stephen
Jeffrey Stingley
Dan Lavon Temple
Nathen Thomas
Thomas Thompson
Curtis Thornton
Stacey Timberlake

Antonio Tisdale
Frank Tolen
Leroy Tracey
McFadden Vernard
William Walker
Tommy Warner
Corey Washington
Derrick Washington
Mitchell Washington
Kevin Waters
Douglas Weiteers
Michael West
Rico West
Elijah White
Maurice Cortez White
Nathaniel White
Roy White
Robert Whitehead
Stephen Whosendore
Chris Wilder
Jackie Williams
James Williams
Michael D. Williams
Steven Williams
Tim Williams
Walter Williams
Damon Wilson
Tyrone Wilson
Brian Wofford
Willie Wood
Cedrice Woods
Allen M. Wright
Daniel Wright
James Adam Wright
Samuel Wright
Thomas Wyatt
Richard D. Wynn
Steve Yawn
James York
Davis Young
Donnie Young
Gary Young

Based on the foregoing, it appears the above plaintiffs no longer wish to pursue this action. Accordingly, it is recommended that this action be dismissed with prejudice for lack

of prosecution and failure to respond to the Order of this court.
Rule 41(b) Federal Rules of Civil Procedure.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert S. Carr". The signature is stylized with a large, looped "R" and a cursive "Carr".

Robert S. Carr
United States Magistrate Judge

Charleston, South Carolina

February 4, 2008

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court judge need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
P.O. Box 835
Charleston, South Carolina 29402

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985).